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8  
9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2010-574**

12 **CICELY DENEEN COMEAUX**  
13 **41506 Terrazzo Drive**  
14 **Palmdale, CA 93551**

**A C C U S A T I O N**

15 **Registered Nurse License No. 580171**

16 **Respondent.**

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department  
21 of Consumer Affairs.

22 2. On or about April 24, 2001, the Board of Registered Nursing issued Registered Nurse  
23 License Number 580171 to Cicely Deneen Comeaux (Respondent). The Registered Nurse  
24 License was in full force and effect at all times relevant to the charges brought herein and will  
25 expire on December 31, 2010, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board),

Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

STATUTORY PROVISIONS

6. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

"(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

". . . .

7. Section 2762 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

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2       "(e) ~~Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any~~  
3 hospital, patient, or other record pertaining to the substances described in subdivision (a) of this  
4 section."

5       8. Code section 4060 states, in pertinent part:

6       "No person shall possess any controlled substance, except that furnished to a person upon  
7 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor  
8 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-  
9 midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician  
10 assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a  
11 pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph  
12 (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the  
13 possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist,  
14 podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse  
15 practitioner, or physician assistant, when in stock in containers correctly labeled with the name  
16 and address of the supplier or producer . . .

17       9. Health and Safety Code section 11170 states:

18       "No person shall prescribe, administer, or furnish a controlled substance for himself."

19       10. Health and Safety Code section 11173 states:

20       "(a) No person shall obtain or attempt to obtain controlled substances, or procure or  
21 attempt to procure the administration of or prescription for controlled substances, (1) by fraud,  
22 deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

23       "(b) No person shall make a false statement in any prescription, order, report, or record,  
24 required by this division.

25       "..."

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1 COST RECOVERY

2 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
3 administrative law judge to direct a licensee found to have committed a violation or violations of  
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
5 enforcement of the case.

6 DRUGS AT ISSUE

7 12. "Dilaudid" is a Schedule II controlled substance pursuant to Health and Safety Code  
8 section 11055(b)(1)(k) and a dangerous drug per Business and Professions Code section 4022.  
9 Dilaudid is a brand name for the generic drug Hydromorphone and is used to treat pain.

10 13. "Percocet", a brand name for acetaminophen/hydrocodone, is Schedule II controlled  
11 substance as designated by Health and Safety Code section 11055(b)(1)(J), and is a dangerous  
12 drug pursuant to Business & Professions Code section 4022. Percocet is a combination of a  
13 narcotic and an analgesic/antipyretic used to treat moderate to moderately severe pain.

14 14. "Restoril", a brand name for temazepam, is a Schedule IV controlled substance as  
15 designated by Health and Safety Code Section 11057(d)(29), and is a dangerous drug pursuant to  
16 Business and Professions Code section 4022. Restoril is a central nervous depressant used to  
17 treat insomnia and sleep disorders.

18 FACTUAL ALLEGATIONS

19 15. Between August of 2007 until her termination from employment on September 11,  
20 2008, Respondent was employed as a registry nurse by Nurse Finders. During some of the above  
21 time period, Respondent was assigned to work at Kaiser Permanente Hospital in San Diego,  
22 California. Between April 7, 2008 and June 25, 2008, while assigned to work at Kaiser  
23 Permanente, Respondent made inaccurate entries in hospital and patient records and took  
24 patients' medications as follows:

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1 16. Patient/MRN 18440039:

2 a. On April 7, 2008, at 0042 hours, Respondent withdrew for this patient from Kaiser  
3 Hospital's Controlled Drug Distribution Records (CDDR)<sup>1</sup> 2 mg. Hydromorphone (Dilaudid).  
4 There is no indication in the patient's medication administration record (MAR) that the  
5 medication withdrawn was administered. Two (2) mg. Dilaudid are unaccounted for.

6 17. Patient/MRN 11852544:

7 a. On May 4, 2008, at 1800 hours, Respondent withdrew for this patient from Kaiser  
8 Hospital's CDDR 2 mg. Dilaudid. There is no indication in the patient's medication  
9 administration record (MAR) that the medication withdrawn was administered. Two (2) mg.  
10 Dilaudid are unaccounted for.

11 18. Patient/MRN 16328483:

12 a. On May 17, 2008, at 1545 hours, Respondent withdrew for this patient from  
13 Kaiser Hospital's CDDR 2 mg. Dilaudid without a Physician's Order. There is no indication in  
14 the patient's medication administration record (MAR) that the medication withdrawn was  
15 administered. Two (2) mg. Dilaudid are unaccounted for.

16 19. Patient/MRN 9961411:

17 a. On June 12, 2008, at 2255 hours, Respondent withdrew for this patient from  
18 Kaiser Hospital's CDDR one dose (2 tablets) Generic Percocet without a Physician's Order.  
19 There is no indication in the patient's medication administration record (MAR) that the  
20 medication withdrawn was administered. Two tablets of Percocet are unaccounted for.

21 <sup>1</sup> Kaiser Permanente's manual Controlled Drug Distribution System at the time of  
22 Respondent's employment was as follows: When withdrawing a controlled medication, the nurse  
23 would enter the withdrawal on the Controlled Drug Distribution Record (CDDR). The patients'  
24 Medical Administration Records were kept in the Nurses Station. After administering the  
25 medication, the nurse would then go to the Nurse's Station to chart the administration of the  
26 controlled substance. Kaiser Permanente did not go online with the Pyxis system until August of  
27 2009.

28 Pyxis is a trade name for the automated single-unit dose medication dispensing system  
that records information such as a patient name, physician orders, date and time medication was  
withdrawn, and the name of the licensed individual who withdrew and administered the  
medication. Each user/operator is given a "user ID" code to operate the control panel. The user  
is required to enter a second code "PIN" number similar to an ATM machine to gain access to the  
medications. Sometimes only portions of the withdrawn narcotics are given to the patient.

1           20. Patient/MRN 170000040:

2           a. On June 15, 2008, at 0120 hours, Respondent withdrew for this patient from  
3 Kaiser Hospital's CDDR two tablets Generic Percocet without a Physician's Order. There is no  
4 indication in the patient's medication administration record (MAR) that the medication  
5 withdrawn was administered. Two tablets of Generic Percocet are unaccounted for.

6           21. Patient/MRN 7250912:

7           a. On June 25, 2008, at 2201 hours, Respondent withdrew for this patient from  
8 Kaiser Hospital's CDDR 2 mg. Dilaudid. There is no indication in the patient's medication  
9 administration record (MAR) that the medication withdrawn was administered. Two (2) mg.  
10 Dilaudid are unaccounted for.

11          22. Patient/MRN 3146920:

12          a. On June 25, 2008, at 2254 hours, Respondent withdrew for this patient from  
13 Kaiser Hospital's CDDR two (2) tablets of Percocet. At 2255 hours, on June 25, 2008,  
14 Respondent withdrew 15 mgs. Restoril. There is no indication in the patient's medication  
15 administration record (MAR) that the medication withdrawn was administered. Two (2) tablets  
16 of Percocet and 15 mgs. Restoril, are unaccounted for.

17          23. Between April 7, 2008 and June 25, 2008, Respondent diverted eight (8) mg.  
18 hydromorphone (Dilaudid), six (6) tablets of Generic Percocet, and 15 mg. Generic Restoril from  
19 Kaiser's CDDR for seven different patients, as set forth more fully in paragraphs 16 through 22,  
20 above. There were no physician's orders for three of the drugs withdrawn.

21          24. On July 23, 2008, Kaiser Permanente dismissed Respondent from the hospital and  
22 Kaiser notified Nurse Finders that Respondent was not to be sent to work at Kaiser Hospital. On  
23 September 11, 2008, Nurse Finders terminated Respondent's employment at the nurse registry.

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1 FIRST CAUSE FOR DISCIPLINE

2 (Obtain and Possess Controlled Substances)

3 25. Respondent is subject to disciplinary action pursuant to Code section 2761(a), on the  
4 grounds of unprofessional conduct, as defined by Code section 2762(a), in that between or about  
5 April 7, 2008 and June 25, 2008, while on duty as a registered nurse at Kaiser Permanente,  
6 Respondent obtained and possessed the controlled substances Dilaudid, Percocet and Restoril, as  
7 set forth in paragraphs 16 through 23, above, which are incorporated herein by reference.

8 SECOND CAUSE FOR DISCIPLINE

9 (False Entries in Hospital/Patient Records)

10 26. Respondent is subject to disciplinary action under section 2761(a), on the grounds of  
11 unprofessional conduct, as defined in Code section 2762(e), in that between or about April 7,  
12 2008, and June 25, 2008, while on duty as a registered nurse at Kaiser Permanente, San Diego  
13 California, Respondent falsified, or made grossly incorrect, grossly inconsistent, or unintelligible  
14 entries in hospital, patient, or other records pertaining to the controlled substances Dilaudid,  
15 Percocet and Restoril, as set forth in paragraphs 16 through 23, above, which are incorporated  
16 herein by reference.

17 PRAYER

18 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
19 and that following the hearing, the Board of Registered Nursing issue a decision:

20 1. Revoking or suspending Registered Nurse License Number 580171, issued to Cicely  
21 Deneen Comeaux;

22 2. Ordering Cicely Deneen Comeaux to pay the Board of Registered Nursing the  
23 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
24 Professions Code section 125.3;

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1           3.    Taking such other and further action as deemed necessary and proper.

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3    DATED:    5/16/10

Louise R. Bailey  
LOUISE R. BAILEY, M.ED., RN  
Interim Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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